

4.2.3-1 INTRODUCTION

This chapter describes social characteristics of the demographic study area to determine whether the Project may benefit or adversely affect certain specific segments of the population. As part of this analysis, potential effects on minority and low-income populations are evaluated in accordance with Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994), as well as U.S. Department of Transportation (USDOT) and Federal Highway Administration (FHWA) environmental justice implementing regulations. Further, in accordance with the New York State Department of Transportation's (NYSDOT) guidelines for analyzing social groups benefited or harmed, this analysis evaluates whether the Project may benefit or adversely affect elderly and/or disabled people, transit-dependent people, pedestrians or bicyclists.

4.2.3-2 METHODOLOGY

In order to satisfy Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994), an environmental justice analysis has been prepared to identify and address any disproportionately high and adverse impacts on minority or low-income populations that could result from the Project. Executive Order 12898 also requires federal agencies to involve the public in the decision-making process. Refer to Chapter 4.1, "Process, Agency Coordination, and Public Participation," for a description of outreach efforts to environmental justice communities. This environmental justice analysis will also serve to assist the New York State Department of Environmental Conservation (NYSDEC) in its environmental permit review process associated with the proposed permit actions and its application of the State Environmental Quality Review Act (SEQRA), and is consistent with the intent of CP-29, "Environmental Justice and Permitting," which is the NYSDEC's policy on environmental justice.

The environmental justice analysis for the Project follows the guidance and methodologies recommended in the federal Council on Environmental Quality's (CEQ) *Environmental Justice Guidance under the National Environmental Policy Act* (December 1997), USDOT's updated Environmental Justice Order 5610.2(a) (*Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*), and FHWA's *FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (Order 6640.23a, dated June 14, 2012).

These orders establish policies and procedures for the agencies to use in complying with Executive Order 12898. The Executive Order and USDOT and FHWA orders on environmental justice reaffirm the principles of Title VI of the Civil Rights Act of 1964 (Title VI) and the National Environmental Policy Act (NEPA), emphasizing the importance of those provisions in the environmental and transportation-related decision-making process.

4.2.3-2-1 CEQ Guidance

CEQ, which has oversight of the federal government's compliance with Executive Order 12898 and the National Environmental Policy Act (NEPA), developed its guidance to assist federal

agencies with their NEPA procedures so that environmental justice concerns are effectively identified and addressed. Federal agencies are permitted to supplement this guidance with more specific procedures tailored to their particular programs or activities.

The CEQ methodology involves collecting demographic information on the area where a project may cause adverse impacts; identifying low-income and minority populations in that area using census data; and identifying whether a project would result in disproportionately high and adverse impacts on minority or low-income populations. Disproportionately high and adverse impacts are those that are significant and adverse, affect minority or low-income communities, and that appreciably exceed those of the general population or non-minority and non-low-income populations. Mitigation measures should be developed and implemented for any disproportionately high and significant and adverse impacts. Under NEPA, the potential for disproportionately high and adverse impacts on minority and/or low-income populations should then be one of the factors the federal agency considers in making its finding on a project.

4.2.3-2-2 Study Area Definition

For the evaluation of environmental justice for the Project, the study area consists of the Town of Genesee Falls and the Town of Portage, which are municipalities located in Wyoming County and Livingston County, respectively. For this analysis, the two towns are the smallest census unit available and best represent the area where the Project has the potential to result in adverse impacts.

4.2.3-2-3 Identification of Environmental Justice Population

Data were gathered from the U.S. Census Bureau's *2010 Census Redistricting Data (Public Law 94-171) Summary File, 2005-2009 American Community Survey*, and *Census 2000* for the study area. For comparison purposes, data for Wyoming County, Livingston County, and New York State were also obtained. Minority and low-income communities were identified as follows:

- *Minority Communities:* The guidance documents define minorities to include American Indian or Alaskan natives, Asian and Pacific Islanders, Black persons, and Hispanic persons. This environmental justice analysis also considers minority populations to include persons who identified themselves as being either "some other race" or "two or more races" in the *2010 Census*. Following CEQ guidance, minority populations are identified where either: 1) the minority population of the affected area exceeds 50 percent of the total population; or 2) the minority population percentage of the affected area is meaningfully greater than the minority population percentage in the general population or other appropriate unit of geographic analysis. For this analysis, the statistical reference area is Wyoming County for the Town of Genesee Falls and Livingston County for the Town of Portage. In 2010, approximately 7.8 percent and 9.8 percent of the population was minority in Livingston County and Wyoming County, respectively. Therefore, those areas of the county with higher percentages of minority populations than these reference percentages are considered minority communities in this environmental justice analysis.
- *Low-Income Communities.* The percentage of individuals living below the poverty level in each county segment was used to identify low-income communities. Since the available guidance documents do not specify thresholds to be used to identify low-income communities, all segments of the county whose percentage of individuals below poverty level was meaningfully greater than that of Livingston County or Wyoming County were considered low-income communities. In Livingston County, approximately 12.3 percent of individuals were living below the poverty level, so, for a conservative approach, any area in Livingston County with more than 12.3 percent of its individuals below the poverty level was considered low-income and, therefore, a potential environmental justice area. In Wyoming

County, approximately 10.5 percent of its individuals were living below the poverty level. Therefore, any segment of Wyoming County with more than 10.5 percent of its individuals living below the poverty level was considered to be low-income and a potential environmental justice area.

4.2.3-3 EXISTING CONDITIONS

4.2.3-3-1 Elderly and Disabled

Table 4.2.3-1 shows the age distribution and disability status of residents in the study area, bi-county region (constituting Wyoming and Livingston Counties), and New York State. In 2010, the population above 65 years in age represented approximately 9.0 percent of the population in Portage. This was lower than the percentage of residents in this age group in Livingston County (12.7 percent). In Genesee Falls, approximately 17.4 percent of the residents were above 65 years in age. This was higher than Wyoming County, where 13.0 percent of residents were in this age group.

Table 4.2.3-1
Age Distribution and Disability Status (in Percent)

Geographic Area	Age Distribution						Percent with a Disability ¹
	School Age (Under 18)		Working Age (Ages 18-64)		Over 65		
	2000	2010	2000	2010	2000	2010	2000
Study Area	30.3	22.2	57.9	65.4	11.8	12.4	20.9
Portage	30.7	21.4	58.4	69.6	10.8	9.0	22.1
Genesee Falls	29.3	23.4	57.0	59.2	13.7	17.4	18.6
Bi-County Region	23.7	20.6	64.6	66.6	11.7	12.8	17.5
Livingston County	23.4	20.3	65.2	67.0	11.4	12.7	17.2
Wyoming County	24.1	20.9	63.8	66.1	12.2	13.0	17.9
New York State	21.5	23.2	62.4	63.7	12.9	13.2	20.6
Note: ¹ Universe: Civilian non-institutionalized population 5 years and over.							
Sources: U.S. Department of Commerce, Bureau of the Census, 2000 Census, Summary Files 1 and 3; 2005-2009 American Community Survey 5-Year Estimates.							

In 2000, approximately 22.1 percent of Portage's non-institutionalized civilian population above 5 years of age had a disability. This was higher than Livingston County (17.2 percent) and the State (20.6 percent). In Genesee Falls, 18.6 percent of the non-institutionalized civilian population above 5 years of age had a disability. This was slightly higher than Wyoming County (17.9 percent), but lower than the State (20.6 percent).

4.2.3-3-2 Transit Dependent, Pedestrians, and Bicyclists

Letchworth State Park, the Genesee Valley Greenway Trail, and the Finger Lakes Trail provide recreational trail facilities for pedestrians and bicyclists. These trails and paths are generally used for recreational purposes and are not considered commuter facilities.

Although the existing Portageville Bridge is meant to serve only rail traffic, pedestrians illegally trespass on the existing bridge for a view of the waterfalls and to traverse the river between the east and west portions of Letchworth State Park. However, there is a park trail with a pedestrian crossing over the Genesee River in the park north of the Project site near Lower Falls.

There are no intercity passenger rail or commuter rail services on the Southern Tier route between Port Jervis and Buffalo.

4.2.3-3-3 Low-Income, Minority, and Ethnic Groups (Environmental Justice)

Table 4.2.3-2 shows the ethnic and income characteristics for populations in the study area as well as for Livingston and Wyoming Counties and the State of New York.

**Table 4.2.3-2
Ethnicity and Income Characteristics**

Geographic Area	Population	Race and Ethnicity (Percent)							Economic Profile	
		White	Black	American Indian	Asian	Other	Hispanic ¹	Minority	2005-2009 Median Household Income in the Past Year ²	Percent Below Poverty Level ³
Study Area	1,322	97.5	0.2	0.4	0.5	1.4	0.7	2.9	\$41,543	14.1
Portage	884	97.3	0.3	0.6	0.1	1.7	0.8	3.2	\$42,162	19.1
Genesee Falls	438	97.9	0.0	0.0	1.4	0.7	0.5	2.3	\$40,557	6.8
Bi-County Region	107,548	92.9	3.7	0.3	0.9	2.2	2.8	8.6	\$52,745	11.6
Livingston	65,393	93.8	2.4	0.3	1.2	2.2	2.8	7.8	\$53,892	12.3
Wyoming	42,155	91.6	5.6	0.3	0.4	2.1	3.0	9.8	\$51,020	10.5
New York State	19,378,102	65.7	15.9	0.6	7.3	10.5	17.6	41.7	\$57,577	13.8

Notes:

- ¹ An ethnic group can include members of all different racial categories.
- ² The median household income reported for the study area are weighted averages of those reported for the county subdivisions or counties in the study areas. Median household income is presented in constant 2011 dollars using the U.S. Department of Labor's March 2011 Consumer Price Index for the Northeast urban area.
- ³ Percent of persons with incomes below the established poverty level; poverty level varies depending on household size.

Sources: U.S. Department of Commerce, Bureau of the Census, 2010 Census Redistricting Data (Public Law 94-171) Summary File, and 2005-2009 American Community Survey 5-Year Estimates.

In 2010, approximately 3.2 percent of the population in the Town of Portage was minority. In comparison, approximately 7.8 percent of the population in Livingston County was minority. The percentage of the population that was minority in the Town of Portage was lower than the percentage of Livingston County's population that was minority. Therefore, the Town of Portage is not considered a minority community for this environmental justice analysis.

Approximately 2.3 percent of the population in the Town of Genesee Falls was minority. This is lower than the minority population in Wyoming County (9.8 percent). Therefore, the Town of Genesee Falls is not considered a minority community for this environmental justice analysis.

Approximately 19.1 percent of the people in the Town of Portage were living below the poverty level as compared with 12.3 percent of the population in Livingston County. This segment of the county had a higher percentage of people living below the poverty level compared with the entire county and compared with the state (13.8 percent). Using conservative criteria identified in Section 4.2.3-2-3 above, the Town of Portage is considered a low-income community for this environmental justice analysis.

Approximately 6.8 percent of the population in the Town of Genesee Falls was living below the poverty level. This is lower than the percentage of residents in Wyoming County (10.5 percent) and New York State (13.8 percent). Using conservative criteria identified in Section 4.2.3-2-3 above, the Town of Genesee Falls is not considered a low-income community for this environmental justice analysis.

Because the Town of Portage meets the criteria for low-income communities as defined in this analysis, Executive Order 12898 is considered in implementation of the Project.

4.2.3-4 EFFECTS ASSESSMENT

4.2.3-4-1 No Action Alternative

Elderly and Disabled

With the No Action Alternative, the existing bridge would remain in service and would be subject only to regular maintenance. There would be no change to conditions for elderly and/or disabled population compared to existing conditions. Therefore, this alternative would have no adverse impacts to the elderly and/or disabled population in the study area.

Transit Dependent, Pedestrians, and Bicyclists

The No Action Alternative would maintain access to the trails beneath the bridge. The use of the existing bridge by pedestrians and cyclists would continue to be prohibited; however, it is possible that people may continue to illegally trespass across the bridge. Therefore, the safety concern of pedestrians and bicyclists crossing the bridge would continue with the No Action Alternative.

Low-Income, Minority, and Ethnic Groups (Environmental Justice) – Executive Order 12898, USDOT Order 5610.2(a), and FHWA Order 6640.23a Determination

A portion of the study area is a potential environmental justice area. With the No Action Alternative, the existing bridge would remain in service and would be subject only to regular maintenance. There would be no change in environmental conditions with the No Action Alternative, and therefore, there would be no disproportionate adverse effects to environmental justice communities.

4.2.3-4-2 Preferred Alternative

Elderly and Disabled

The Preferred Alternative involves the construction of a new railroad bridge and demolition of the existing railroad bridge. The new bridge would continue to serve freight traffic and would not impact the mobility of elderly or disabled persons. Therefore, the Preferred Alternative would not have adverse impacts on the elderly or disabled population of the study area.

Transit Dependent, Pedestrians, and Bicyclists

The new bridge would pass above the Gorge Trail and Genesee Valley Greenway Trail, and would not affect the trails. The southern trailheads for the Gorge Trail and Mary Jemison Trail would be relocated slightly to accommodate the new railroad alignment required for the bridge. Trail access would be maintained with these minor changes to the trails. Pedestrians and cyclists would be prohibited from using the new bridge. Automatic gates, fencing, or other safety devices would be implemented to limit access to the bridge and deter trespassing. The existing bridge would be removed.

Low-Income, Minority, and Ethnic Groups (Environmental Justice) – Executive Order 12898, USDOT Order 5610.2(a), and FHWA Order 6640.23a Determination

The Preferred Alternative is limited to building a new rail bridge in Letchworth State Park approximately 75 feet south of an existing bridge and removing the existing bridge. As described elsewhere in this document, this alternative would primarily affect the park and adjacent land with limited impacts to area residents. Therefore, the Preferred Alternative would not have disproportionately high and adverse impacts on environmental justice communities.

4.2.3-5 SUMMARY OF MITIGATION

No impacts were identified affecting elderly and disabled populations; transit-dependent, pedestrian, and bicycle populations; or minority and low-income populations. The Project would not result in disproportionately high and adverse impacts on minority and low-income populations, pursuant to guidance from CEQ, USDOT, and FHWA. Therefore, mitigation is not required.